

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

TIMOTHY MARVIN FRICKS,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 5:10-CV-458(MTT)
)
Warden STEVE UPTON, et al.,)
)
Defendants.)
)

ORDER

This case is before the Court on the Recommendation (Doc. 5) of United States Magistrate Judge Charles H. Weigle pursuant to his 28 U.S.C. § 1915(e)(2) initial review. The Magistrate Judge recommends (a) denying as moot the Plaintiff's claims for injunctive and declaratory relief; (b) dismissing the Plaintiff's Eighth Amendment claims as frivolous; (c) dismissing the Plaintiff's access-to-courts claim as frivolous; (d) allowing the Plaintiff's due-process and first-amendment claims to proceed against Warden Steve Upton and Officer Wayman Henson; and (e) ordering service against Warden Upton and Officer Henson. The Plaintiff did not file an objection to the Recommendation. The Court has reviewed the Recommendation and the Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Recommendation is adopted and made the order of this Court. The Plaintiff's injunctive and declaratory claims, his Eighth-Amendment claims and his access-to-courts claims will all be dismissed; however, the Plaintiff's due-process and

first-amendment claims against Warden Upton and Officer Henson will be allowed to proceed and service is ordered upon those Defendants.

SO ORDERED, this the 26th day of July, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

jch